

Appln. No.: 09/806,423
Amendment Dated October 4, 2006
Reply to Office Action of July 27, 2006

WBF-100US (formerly SSM-488US)

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Remarks/Arguments:

Claims 1, 4-14, 16, 17, 19, 27, 30-32, 35-41, 43-50, and 52-54 are pending in the application. In the Office Action dated July 27, 2006, claims 1, 4-14, 16, 17, 19, 27, 30-32, 35-41, 43-50, and 52-54 were objected to under 35 U.S.C. § 112, first and/or second paragraphs. Claims 19 and 45-48 were objected to on the ground that they contain Informalities. Claims 14, 16, 27, 39 and 50 were rejected under 35 U.S.C. § 102 as being anticipated by, or alternatively under 35 U.S.C. § 103 as being obvious in view of U.S. Patent No. 4,600,477 ("Higashi et al."). In addition, claims 17, 19, 40, 41 and 45-49 were rejected under 35 U.S.C. § 103 as being obvious in view of Higashi et al.

Applicant gratefully appreciates the Examiner's indication of allowable subject matter in claims 1, 4-13, 27, 30-32, 35-38, 43, 44 and 52-54. Nevertheless, Applicant wishes to raise a few matters related to the claim rejections, and withholds decision on the allowable claims until those matters are addressed.

Claim Objections

Claims 19 and 45-48 were objected to on the ground that the text "-%" is a typographical error. To expedite prosecution, Applicant has amended claims 19 and 45-48 to replace "vol.-%" with "vol.%", the latter being used and not objected to in claim 49. This amendment is related to form, not patentability, and therefore is not intended to surrender any subject matter. No new matter has been added.

Claim Rejections - 35 U.S.C. § 112 - 1st Paragraph

Claims 1, 4-14, 16, 17, 19, 27, 30-32, 35-41, 43-50, and 52-54 were rejected on the ground that "the specification, while being enabling for a 'bubble evaporator or flash evaporator' . . . does not reasonably provide enablement for the now claimed evaporator." The Office Action indicates that because the specification only mentions flash evaporators and bubble evaporators, other types of evaporators were not contemplated and therefore not enabled.

Applicant respectfully refers to 35 U.S.C. § 112, first paragraph, which states "[t]he specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable *any person skilled in the art to which it pertains*, or with which it is most nearly connected, to make and use the same" The standard for enablement is not based solely on that which is explicitly described in the specification, but rather, is based on that which a person having ordinary skill in the art would understand in view of the specification and their knowledge of the technology. In this case, a person of ordinary skill in the art would understand what types of

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evaporators would be suitable for the claimed distillation plant, and that flash evaporators and bubble evaporators are just examples of evaporators that can be used with the invention. The fact that flash evaporators and bubble evaporators are mentioned in the specification does not exclude other types of evaporators from consideration. Examples described in the specification cannot be used to limit the claims.

Even if the specification could be used to limit the claims under 35 U.S.C. §112, first paragraph, Applicants' specification does not refer exclusively to flash evaporators or bubble evaporators. A number of sections in the specification refer generically to evaporators and the evaporation process, without regard to the type of evaporator used. Therefore, Applicant respectfully requests that the claim rejections under 35 U.S.C. § 112, first paragraph be reconsidered.

Claim Rejections - 35 U.S.C. § 112, 2nd Paragraph

The Office Action indicates that claim 5 is inconsistent with claim 1, but Applicant sees no inconsistency. Independent claim 1 recites "means for maintaining the ratio comprising a recycling line connected between the multi-stage condenser and a pump installed in said recycling line for recycling at least part of said condensate from the condenser to said bottoms product of said evaporator." Dependent claim 5 recites "wherein said means for maintaining said ratio comprises at least one membrane pump for withdrawing condensate from the condenser." There is no inconsistency between these claims. Both claims use the term "comprise" and are therefore open-ended. To the extent that the language in claim 5 contradicts the language used in claim 1, Applicant respectfully requests an explanation of the inconsistency.

Regarding claim 40, Applicant has amended the claim to replace the expression "water/alcohol ratio" with the phrase "water to alcohol ratio." This amendment is related to form, not patentability, and therefore is not intended to surrender any subject matter. No new matter has been added.

The base claim in claim 48 was intended to be amended in the last reply. Applicant has amended claim 48 to be dependent on claim 14. This amendment is related to form, not patentability, and therefore is not intended to surrender any subject matter. No new matter has been added.

Claim Rejections - 35 U.S.C. § 102(b)/§103(a)

Independent claims 14 and 50 recite a concentration process comprising the step of "recycling at least part of said liquid condensate to said evaporator to maintain a substantially constant ratio of more volatile to less volatile constituents in the solution in the evaporator."

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Higashi et al. does not teach or suggest the step of recycling liquid condensate, as recited in claims 14 and 50. Instead, Higashi et al. discloses a process in which vapor is recycled to a vaporizer by compression to achieve a heat exchange with the feed. Although new vapor and condensate is generated during the heat exchange, the liquid condensate is discharged, not recycled to an evaporator. (See, e.g., col. 1, lines 60-63, "said condensate being discharged."). The claims in columns 8-10 of Higashi et al. reflect vapor recycling, not recycling of liquid. Moreover, Higashi et al. does not discuss maintaining "a substantially constant ratio of more volatile to less volatile constituents in the solution in the evaporator." Therefore, claims 14 and 50 are neither anticipated nor rendered obvious by the process disclosed in Higashi et al. Applicant respectfully requests reconsideration of the rejection of these claims.

Claims 16, 17, 19, 27, 39-41 and 45-49 are dependent on claim 14 and incorporate all the features recited in claim 14. Therefore, claims 16, 17, 19, 27, 39-41 and 45-49 are allowable over Higashi et al. for at least the same reason that claim 14 is allowable. Applicant respectfully requests reconsideration of the rejection of these claims.

Conclusion

Based on the foregoing, Applicant believes that the objections and rejections set forth in the Office Action are traversed, and that the claims are in condition for allowance. Favorable action is respectfully requested at this time. If the Examiner believes there are any issues preventing allowance of the application, the Examiner is encouraged to contact the undersigned attorney at 610-407-0700.

Respectfully submitted,



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